

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Upon entry of this amendment, claims 1-9 and 22-53 are pending in the application. By this amendment, claims 1, 8, 26, and 51 have been amended and new claims 52-53 have been added. Claims 33-50 have been withdrawn from consideration.

In paragraph 1 of the office action, claims 33-50 are withdrawn from consideration.

With respect to claims 33, 41, and 50, rejoinder of such claims is respectfully requested upon allowance of claims 22, 34, and 42.

With respect to claims 34-40 and 42-49, Applicants respectfully request reconsideration of the lack of unity. Independent claims 34 and 42 include special technical features, e.g., “band portions” for transmitting mask holding forces and “foamed material”, which are common with claim 1 and help distinguish over the art of record. Accordingly, rejoinder and examination of claims 34-40 and 42-49 is respectfully requested.

Claims 8, 9, and 26-28 are rejected under 35 U.S.C. §112, second paragraph. Claims 8 and 26 have been amended for clarity purposes to overcome the rejection. Withdrawal of the §112, second paragraph, rejection is respectfully requested.

Claims 1, 31, 32, and 51 are rejected under 35 U.S.C. §102(b) by Heine et al (U.S. Patent No. 4,675,919). This rejection is respectfully traversed.

Claim 1 relates to a headband arrangement for applying a breathing mask to a user and having a flexible band body including upper and lower band portions for transmitting the mask holding forces required for applying the breathing mask, the upper band portion adapted to transmit mask holding forces to an upper portion of the mask and the lower band portion adapted to transmit mask holding forces to a lower portion of the mask, wherein at least portions of the band body are made of a foamed plastic material.

Heine does not disclose the headband arrangement of claim 1. For example, Heine discloses a headband to carry optical instruments by means of a stirrup. Heine does not disclose a headband arrangement including upper and lower band portions adapted to transmit mask holding forces to upper and lower portions of a breathing mask. Rather, the headband of Heine is used in the suspension of instruments away from the user’s face and does not apply forces for

holding a breathing mask in sealing engagement with a patient's face. Moreover, the office action fails to specify where the alleged upper and lower band portions of Heine are located, and how such alleged band portions transmit mask holding forces.

Withdrawal of the rejection of claim 1 is respectfully requested.

Claims 31 and 32 are allowable by virtue of their dependence on claim 1 and additionally allowable for their recitation of additional patentable features. For example, Heine clearly fails to disclose a pair of upper and lower band portions for transmitting mask holding forces as recited in claim 32.

Claim 51 should be allowable for at least the reasons noted above with respect to claim 1. For example, Heine does not disclose a headband arrangement including upper and lower band portions adapted to transmit mask holding forces to upper and lower portions of a breathing mask. Withdrawal of the rejection of claim 51 is respectfully requested.

Claim 22 is rejected under 35 U.S.C. §102(b) by Magidson (U.S. Patent No. 5,829,062). This rejection is respectfully traversed.

Claim 22 relates to a headband arrangement for a mask including an upper headband portion adapted to transmit mask holding forces to an upper portion of the mask and a lower headband portion adapted to transmit mask holding forces to a lower portion of the mask. At least one headband portion of the upper and lower headband portions including a longitudinal recess and a mask connector in the form of an insert embedded into the recess of the at least one headband portion, the mask connector structured to allow the mask to be attached to the headband arrangement in an adjustable manner.

Magidson does not disclose the headband arrangement of claim 22. For example, Magidson discloses a headband ear protector apparatus including a headband 12 and ear protectors 14. Such headband 12 clearly does not provide upper and lower headband portions for transmitting mask holding forces. Moreover, the office action alleges that soft plastic material 22 of Magidson is a mask connector in the form of an insert. However, such soft plastic material 22 is simply fills a cavity 18 along support member 16 for sound attenuation. Such soft plastic material is not a "mask connector" structured to allow the mask to be attached to the headband arrangement in an adjustable manner as claimed.

Withdrawal of the rejection of claim 22 is respectfully requested.

Claims 1-7, 23-25, 29, 30, and 51 are rejected under 35 U.S.C. §103(a) over Magidson in view of Heine. This rejection is respectfully traversed.

As noted above, neither Magidson nor Heine disclose a headband arrangement including upper and lower band portions adapted to transmit mask holding forces to upper and lower portions of a breathing mask as required by claims 1 and 51. Moreover, there is no reason or motivation to combine Magidson and Heine, e.g., Magidson relates to headband to maintain ear protectors positioned against ear canal whereas Heine relates to headband used in the suspension of instruments away from the user's face. Accordingly, withdrawal of the rejection of claims 1-7 and 51 is respectfully requested.

Also, Heine does not make up for the deficiencies noted above with respect to Magidson. Accordingly, claims 23-25, 29, and 30 are allowable by virtue of their dependence on claim 22 and additionally allowable for their recitation of additional patentable features.

New claims 52 and 53 have been added. Entry and allowance of these new claims is respectfully requested.

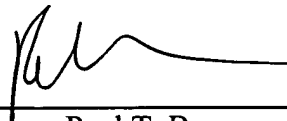
In view of the above amendments and remarks, Applicants respectfully submit that all claims are patentable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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